

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DERRICK LEE WALKER,)
Petitioner,)
v.) Case No. CV412-023
AL ST. LAWRENCE,)
Respondent.)

REPORT AND RECOMMENDATION

Indicted on March 2, 2011 on drug charges, *see* attached state court docket, Derrick Lee Walker petitions this Court under 28 U.S.C. § 2241, doc. 1, and moves for leave to file it *in forma pauperis* (IFP). Doc. 4. Jailed for nineteen months with, he alleges, no bail or a speedy trial (the attached shows a February 13, 2012 “trial docket call”), he seeks relief from this Court on his constitutional speedy trial grounds. Doc. 1 at 1-4.

The Court **GRANTS** his IFP motion (doc. 4) but concludes his petition must be dismissed. Pretrial § 2241 petitions must be exhausted. *Wilkinson v. Dotson*, 544 U.S. 74, 79 2005) (all habeas corpus actions “require a petitioner to fully exhaust state remedies”); *Thomas v. Crosby*,

371 F.3d 782, 812 (11th Cir. 2004) (Tjoflat, J., concurring) (“Among the most fundamental common law requirements of § 2241 is that petitioners must first exhaust their state court remedies.”). Georgia law

allows pretrial detainees to raise each of these types of claims either during state criminal proceedings or collaterally in a state habeas corpus action. *See Perera v. Miller*, 283 Ga. 583, 662 S.E.2d 544, 544 (Ga. 2008) (noting that criminal defendants can bring speedy trial claim and ineffective assistance of counsel claims during the course of criminal proceedings); *Jackson v. State*, 279 Ga. 449, 614 S.E.2d 781, 783–84 (Ga. 2005) (ruling on speedy trial claim and due process claim based on preindictment delay; claims initially brought in motion for a new trial and reasserted on direct appeal); *Rainwater v. Langley*, 277 Ga. 127, 587 S.E.2d 18, 19–20 (Ga. 2003) (challenging pretrial detention in state habeas petition); *Banks v. Waldrop*, 272 Ga. 475, 531 S.E.2d 708, 708 (Ga. 2000) (holding that challenge to pretrial detention based on contention of improper denial of bail is properly brought in state habeas petition); *McClure v. Hopper*, 234 Ga. 45, 214 S.E.2d 503, 506 (Ga. 1975) (holding that claim based on denial of a timely first appearance may be cognizable in habeas corpus action).

Harvey v. Corbin, 2011 WL 4369828 at * 2 (S.D. Ga. Aug. 12, 2011). As in *Harvey*, Walker “has not alleged, and there is nothing in the record to suggest, that he filed a state habeas petition challenging his pre-trial detention.” *Id.* Therefore, his petition (doc. 1) should be **DISMISSED WITHOUT PREJUDICE** so that he may exhaust available state remedies.

SO REPORTED AND RECOMMENDED, this 13th day of
February, 2012.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA



CHATHAM COUNTY, GA

Eastern Judicial Circuit of Georgia

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February 10, 2012

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Case Details

State

VS.

WALKER, DERRICK LEE

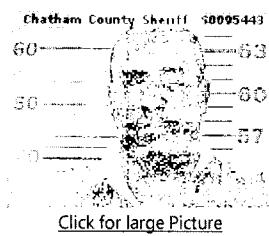
[Case Events](#)[Charges](#)[Parties](#)[Proceedings](#)

Case Information

Court: Superior
 Case Number: CR110528
 Case Type: DRUGS - SALE/TRAFFICKING
 Judge: HONORABLE LOUISA ABBOT
 Assistant District Attorney: JUSTIN MAINES
 Date Filed: 3/2/2011
 Status: ACTIVE -
 Next Event: 2/13/2012 TRIAL DOCKET CALL

Defendant Information

Name: WALKER, DERRICK LEE
 DIN: S0095443
 Gender: MALE
 Race: AFRICAN AMERICAN
 Height: 67
 Weight: 190
 Eyes: BROWN
 Hair: BLACK

[Click for large Picture](#)[Defendant History](#)

Attorney Information

JUNE FOGLE
 540 EAST OGLETHORPE AVE
 SAVANNAH, GA
 31401

Bondsman Information

N/A

Case Events

Date	Time	Code	Judge	Action
2/13/2012	09:00AM	TRIAL DOCKET CALL	LOUISA ABBOT	
12/8/2011	2:00PM	TRIAL DOCKET CALL	LOUISA ABBOT	RESCHEDULE EVENT
11/14/2011	09:00AM	TRIAL DOCKET CALL	LOUISA ABBOT	RESCHEDULE EVENT
9/22/2011	3:00PM	PLEA HEARING	LOUISA ABBOT	OTHER
9/15/2011	10:00AM	PLEA HEARING	LOUISA ABBOT	RESCHEDULE EVENT
8/11/2011	10:00AM	PLEA HEARING	LOUISA ABBOT	RESCHEDULE EVENT
6/16/2011	10:00AM	PLEA HEARING	LOUISA ABBOT	RESCHEDULE EVENT
4/12/2011	10:00AM	STATUS CONFERENCE HEARING	LOUISA ABBOT	

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Charges

Charge	Description	Counts	Severity	Charge Date	Disposition
16-13-30(B)SFL	SALE OF CONTROLLED SUBSTANCE	1	FELONY	8/30/2010	
16-13-32.3	USE COMMUNICATION FAC. FOR CRIMINAL USE	1	FELONY	8/30/2010	
16-13-30(B)Sell	SALE OF CONTROLLED SUBSTANCE	1	FELONY	8/30/2010	

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Proceedings

2/13/2012	09:00AM	TRIAL DOCKET CALL	LOUISA ABBOT	
2/1/2012		PRO SE MOTION		NTC OF APPEAL/

1/27/2012		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			ADDRESSED TO ATTY M. EDWARDS/
1/13/2012		ORDER			SIGNED ORDER ON DEF'S PRO SE DEMAND TO DISMISS CHARGES - STRICKEN/
1/13/2012		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			ADDRESSED TO MICHAEL EDWARDS/
1/11/2012		PRO SE LETTER RECEIVED AND CLERKS RESPONSE	DISMISSED		DEMAND TO DISMISS CHARGES/
1/11/2012		ORDER			SIGNED ORDER ON MTN TO SUBPOENA THE INVESTIGATOR OF THE PD OFFICE MR. MACKY - DISMISSED/
1/4/2012		PRO SE LETTER RECEIVED AND CLERKS RESPONSE	DISMISSED		MTN TO SUBPOENA THE INVESTIGATOR OF THE PD OFFICE MR. MACKY/
1/4/2012		ORDER			SIGNED ORDER ON MTN TO SUBPOENA ATTY JENNIFER BURNS OF THE PD OFFICE - DENIED/
12/30/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE	DENIED		MTN TO SUBPOENA ATTY J. BURNS OF PD OFFICE/
12/16/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			REQUEST ALL MTNS/
12/13/2011		ORDER			SIGNED ORDER ON MTN TO REDUCE BOND - STRICKEN/
12/8/2011		PRO SE MOTION	STRICKEN		MTN FOR BOND/
12/8/2011		PRO SE MOTION	STRICKEN		MADDOX MTN AND RULE nisi TO PRODUCE AND PRESERVE EVIDENCE/
12/8/2011	2:00PM	TRIAL DOCKET CALL	RESCHEDULE EVENT	LOUISA ABBOT	
12/7/2011		ORDER			SIGNED ORDER ON PRO SE MTN FOR REDUCTION IN BOND - STRICKEN/
11/23/2011		PRO SE MOTION	STRICKEN		MTN FOR PRODUCTION IN LAYMEN TERMS PRO-SE/
11/21/2011		PRO SE MOTION	STRICKEN		MTN FOR REDUCTION OF BOND/
11/15/2011		SUBPOENA DUCES TECUM			AT&T SUBPOENA CNTR/
11/14/2011	09:00AM	TRIAL DOCKET CALL	RESCHEDULE EVENT	LOUISA ABBOT	
11/1/2011		BOND ORDER			GRANTED/
10/31/2011		MOTION - TO COMPEL			DISCLOSURE OF CONFIDENTIAL INFORMANT/
10/31/2011		MOTION - TO REVEAL DEAL			
10/25/2011		PETITION FOR BOND/NISI			110111 @ 920AM/
9/22/2011	3:00PM	PLEA HEARING	OTHER	LOUISA ABBOT	
9/15/2011		HOLD ORDER			
9/15/2011	10:00AM	PLEA HEARING	RESCHEDULE EVENT	LOUISA ABBOT	
8/11/2011		HOLD ORDER			
8/11/2011	10:00AM	PLEA HEARING	RESCHEDULE EVENT	LOUISA ABBOT	
6/21/2011		MOTION/ORDER FOR PRODUCTION OF STATE PRISONER			
6/16/2011	10:00AM	PLEA HEARING	RESCHEDULE EVENT	LOUISA ABBOT	
5/19/2011		STATES DISCOVERY DISCLOSURE AND DEMAND FOR RECIPROCAL DISCOVERY			DISCOVERY DISCLOSURE/DEMAND FOR DISCLOSURE OF WITNESS IDENTITIES AND INFORMATION/DEMAND FOR WITNESS STATEMENTS/DEMAND FOR DISCOVERY REGARDING ALIBI/DEMAND FOR ADDITIONAL DISCOVERY/LIST OF WITNESSES/NTC OF INTENT TO PROSECUTE DEF AS A RECIDIVIST/NTC OF INTENT TO OFFER EVIDENCE IN AGGRAVATION OF PUNISHMENT/NTC OF STATE'S INTENT TO INTRODUCE EVIDENCE OF SIMILAR

					TRANSACTIONS AND MTN TO ALLOW SUCH EVIDENCE/CERT OF SERV/
4/12/2011	10:00AM	STATUS CONFERENCE HEARING		LOUISA ABBOT	
3/16/2011		PRO SE LETTER RECEIVED AND CLERKS RESPONSE			REQUEST ENTIRE FILE/
3/9/2011		CONSOLIDATED MOTIONS PACKAGE			CERT OF SERV/
3/8/2011		PRETRIAL SCHEDULING ORDER			
3/3/2011 10:33:49 AM		SCREENING			Initial Case Screening / Scanning
3/2/2011		INDICTMENT			
10/19/2010		ENTRY OF APPEARANCE		J. FOGLE/	
10/19/2010		DEFENDANTS ELECTION TO PROCEED UNDER OCGA 17-16-1			

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